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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,785

04/12/2007

Marcus Bernard Hubert Bontjer

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ZARLEY LAW FIRM P.L.C.

CAPITAL SQUARE

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DES MOINES, IA 50309-2350

EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

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MAIL DATE

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11/21/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/581,785	Applicant(s) BONTJER ET AL.	
	Examiner David J. Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4-12-07</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **Detailed Action**

### ***Preliminary Amendment***

1. Entry of applicant's preliminary amendment dated 6-6-06 into the application is acknowledged.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains legal phraseology in particular the term "means" and it contains implied statements. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to what the opposite sides of the casing parts are into contact with, Given the language in the claim "brought into contact with each during".

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,418,447 to Ziolkowski.

Referring to claim 1, Ziolkowski discloses a method for phased separation of a sausage strand comprising the steps of supplying a sausage strand - at 58, positioning the sausage strand relative

to a separating element – at 34-62, moving at least two pressing members – at 61,62, forming part of the separating element toward each other – see figures 4-5, with a first movement such that the sausage strand is constricted locally – see figures 4-5, moving the pressing members apart – see figure 6, where items 61-62 are moved further apart than they were in figure 5, and moving at least two cutting elements - at 56, forming part of the same separating element toward each other such that the sausage strand is separated at the position of the sausage strand constricted locally during the moving of the pressing members toward each other - see figures 4-7.

Referring to claim 2, Ziolkko discloses the sausage strand is supplied at a constant speed and that along a part of the transport part of the sausage strand the separating element is advanced parallel to the sausage strand - see figure 1.

Referring to claim 3, Ziolkko discloses the sausage strand is locally constricted by at least partially displacing sausage dough locally from a casing enclosing sausage dough – see at 58 and column 8 lines 54-68.

Referring to claim 4, Ziolkko discloses the sausage dough is displaced such that casing parts of the sausage strand on opposite sides are brought into contact with each during constricting of the sausage strand in moving the pressing members toward each other - see figures 1-7.

Referring to claim 5, Ziolkko discloses the pressing members are provided with coacting contact surfaces – at 61,62, between which the sausage strand is engaged – see figures 4-7.

Referring to claim 6, Ziolkko discloses the pressing members and the cutting members of a separating element are operated by a common drive - see at 45-47, 50, 65,74.

Referring to claim 7, Ziolkow discloses a separating element for phased separation of a sausage strand comprising, at least two pressing members – at 61,62, which pressing members are relatively displaceable between a release position and an operative position in which the pressing members are placed closer together than in the release position - see figures 4-7, and at least two cutting members - at 56, assembled with the pressing members - see figures 1-7, which cutting members are relatively displaceable between a release position and a cutting position - see figures 4-7, in that the cutting members are each rigidly paired to a pressing member - see figures 1-7, and a paired cutting member and pressing member are situated on opposite sides of the sausage strand to be separated - see figures 1-7.

Referring to claim 8, Ziolkow discloses the separating element also comprises drive means connected to the pressing members and cutting members - see at 45-53, 65 and 74 in figures 1-3.

Referring to claim 9, Ziolkow discloses the pressing members and cutting members are coupled to common drive means - see figures 1-3.

Referring to claim 10, Ziolkow discloses the contact side of the pressing members of a rigidly coupled pair of pressing members and cutting member is directed toward the contact side of the cutting member coupled thereto – see figures 4-7.

Referring to claim 11, Ziolkow discloses the separating element is supported by a displaceable holder - at 33 - see figures 1-2.

Referring to claim 12, Ziolkow discloses the separating elements are placed in line - see figures 1-2.

Referring to claim 13, Ziolkow discloses the mutual distance between successive separating elements is constant - see figure 1.

Referring to claim 14, Ziolkow discloses the separating elements are placed on the periphery of a rotatable wheel - see figure 1.

Referring to claim 15, Ziolkow discloses the separating elements are provided with cam followers - at 53, which co-act with a cam track - at 42, likewise forming part of the assembly - see figures 1-2, which cam followers and cam track are relatively displaceable - see figures 1-2.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to sausage strand cutting devices in particular:

U.S. Pat. No. 4,214,492 to Hoffman - shows sausage separating device

U.S. Pat. No. 4,463,641 to Sato - shows sausage separating device

U.S. Pat. No. 5,145,450 to Staudenrausch et al. - shows sausage separating device

U.S. Pat. No. 5,173,075 to Wadell - shows sausage separating device

U.S. Pat. No. 5,421,137 to Stimpfl - shows sausage separating device

U.S. Pat. No. 6,045,445 to Hummel et al. - shows sausage separating device

U.S. Pat. No. 6,080,054 to Muller et al. - shows sausage separating device


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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
DAVID PARSLEY  
PRIMARY EXAMINER